~~TOP SECRET//COMINT//NOFORN~~
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

24 December 2008

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//~~FOUO~~) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//~~FOUO~~) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that any intelligence activities of the National Security Agency during the quarter ending 30 September 2008 were unlawful or contrary to Executive Order or Presidential Directive and thus should have been reported pursuant to Section 1.7.(d) of Executive Order 12333.

(U//~~FOUO~~) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

George Ellard

GEORGE ELLARD
Inspector General

Vito T. Potenza

VITO T. POTENZA
General Counsel

(U//~~FOUO~~) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

KEITH B. ALEXANDER
Lieutenant General, U. S. Army
Director, NSA/Chief, CSS

Encl:
Quarterly Report

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Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20320108

Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

1. (U//~~FOUO~~) Intelligence, counterintelligence, and intelligence-related activities that violate law, regulation, or policy substantiated during the quarter, as well as actions taken as a result of the violations.

(U) **Intelligence Activities**

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ **Unintentional collection against United States persons.** This quarter, there were [redacted] instances in which Signals Intelligence (SIGINT) analysts inadvertently targeted or collected communications to, from, or about U. S. persons while pursuing foreign intelligence tasking. All intercepts and reports have been deleted or destroyed as required by United States SIGINT Directive (USSID) SP0018.

(U) Unauthorized Targeting

(b)(1)
(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//REL TO USA, FVEY)~~ On [redacted] used the U.S. SIGINT System (USSS) to locate [redacted] believed to be kidnapped [redacted] The selectors were tasked before authorization was obtained from NSA. After the NSA Office of General Counsel (OGC) denied the authorization request, [redacted] was found. He had not been kidnapped. The [redacted] analysts have received additional intelligence oversight training.

~~(TS//SI//NF)~~ A selector for an Attorney General (AG)-authorized target remained on collection for [redacted] after the AG authorization expired on [redacted] The selector was detasked on [redacted] No collection occurred as a result of the process violation. A review of all other targeted selectors relating to the target was conducted. All selectors were confirmed terminated on or before [redacted]

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ On [redacted] during an experimental collection and processing effort, NSA analysts collected [redacted] The messages were deleted [redacted] when the error was identified.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst found [redacted] that should have been detasked [redacted] when NSA learned the target was a U.S. person. [redacted] No queries on the selectors had been made before [redacted] when the selectors were deleted, and all collection was purged from the database.

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst mistakenly targeted [redacted] instead of the [redacted] associated with a foreign target. The violation was corrected by the analyst on [redacted] and the associated collection was purged from the NSA database.

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~~(TS//SI//NF)~~ selectors were detasked and collection was destroyed when An analyst misunderstood the direction to treat the target as a U.S. person until the target's state was verified and retasked the selectors The selectors were again detasked and intercept purged from NSA databases when the violation was identified (b)(1) (b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ during routine oversight, an NSA database auditor found telephone selectors in the United States According to the analyst responsible for the This process violation resulted in collection. The selectors were removed from the query, and collection was deleted (b)(1) (b)(3)-P.L. 86-36 (b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ a review of a found that selectors for foreign intelligence targets were not detasked The selectors were detasked and collection occurring between was purged from NSA databases 2008. (b)(1) (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

(U) Computer Network Exploitation (CNE)

~~(TS//SI//REL TO USA, FVEY)~~

(U) Database Queries (b)(1) (b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ On occasions NSA analysts failed to verify that targets were located outside of the United States before conducting database queries.

P.L. 86-36
18 USC 798
50 USC 3024(i)

All queries were terminated and associated data was deleted. No reporting occurred.

~~(TS//SI//REL TO USA, FVEY)~~ an NSA analyst constructed a database query using the name of a U.S. organization. He typed the organization while pursuing foreign intelligence on The query and retrieved data were deleted another analyst referenced a U.S.

(b)(1) (b)(3)-P.L. 86-36

(b)(1) (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

[redacted] while searching for [redacted] information on his foreign target. The query and resulting data were deleted. [redacted]

(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(S//SI//REL TO USA, FVEY)~~ During an [redacted] audit of database queries, an auditor found that a junior analyst queried [redacted] of a U.S. person [redacted] a foreign intelligence target. She had not considered the possibility that [redacted] a U.S. person. No collection resulted from the query. The analyst received additional training on intelligence oversight authorities from her auditor.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ [redacted] an NSA analyst queried on a U.S. citizen using the [redacted] spelling of the person's name. The analyst recognized the procedural failure. He interrupted and deleted the query [redacted] preventing the results from posting, and enrolled in USSID SP0018 refresher training.

~~(TS//SI//NF)~~ [redacted] typing errors resulted in unauthorized queries. In both instances, one mistyped digit changed the selectors so that the query was against U.S. persons who were not foreign intelligence targets. The two queries were terminated and associated results deleted on the day of the queries.

~~(S//SI//REL TO USA, FVEY)~~ [redacted] an NSA database auditor found that an analyst queried [redacted] The queries and results were deleted, and the analyst enrolled in refresher training.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ On two occasions during training courses or research, NSA analysts queried on the [redacted] of other analysts. In both cases, no results were returned. The analysts were instructed on proper query construction.

(U) Detasking Delays

~~(S//SI//NF)~~ [redacted] an NSA analyst removed the DNI selectors of [redacted] but failed to detask the telephone numbers. The process failure was corrected [redacted] when the error was identified. There was no collection from [redacted]

(b)(1)
(b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ [redacted] a target initially thought to be legitimate and foreign was found to be a U.S. citizen. Although queries were terminated and selectors were detasked, collection was not purged from NSA databases in a timely manner. Purging took place [redacted] after the selector was detasked, when the analyst returned from sick leave.

~~(S//SI//REL TO USA, FVEY)~~ **Unintentional dissemination of U.S. identities.** There were [redacted] instances in which SIGINT analysts disseminated communications to, from, or about U.S. persons while pursuing foreign intelligence tasking this quarter. All data have been deleted or destroyed as required by USSID SP0018.

~~(S//SI//REL TO USA, FVEY)~~ During this quarter, [redacted] SIGINT products were cancelled because they contained the identities of U.S. persons, organizations, or entities. In all instances, the reports were either not reissued or were reissued with proper minimization. (b)(1) (b)(3)-P.L. 86-36

~~(TS//REL TO USA, FVEY)~~ [redacted] analyst [redacted] When the error was found the same day, the [redacted] was destroyed. All [redacted] were reviewed for U.S. person information, and the analysts have received remedial training. (b)(1) (b)(3)-P.L. 86-36 (b)(3)-18 USC 798 (b)(3)-50 USC 3024(i)

~~(S//SI//REL)~~ [redacted] the name of a U.S. organization involved with the [redacted] was included in a tip to [redacted] without a finding that the U.S. identity was necessary to understand the foreign intelligence or assess its importance. The tip was recalled and the recipients destroyed their copies.

(b)(1) (b)(3)-P.L. 86-36

(U) The Foreign Intelligence Surveillance Act (FISA)

(U//~~FOUO~~) Foreign Intelligence Surveillance Court (FISC)-Authorized Collection (b)(1) (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted] an NSA analyst learned that a telephone number had not been [redacted] because of a typing error. This mistake resulted in the collection of [redacted] the United States between [redacted] Once identified, the typing error was corrected, and the [redacted] intercepts were deleted from the NSA database on [redacted] (b)(1) (b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ [redacted] (b)(1) (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted] P.L. 86-36 18 USC 798 50 USC 3024(i)

~~(TS//SI//NF)~~ On [redacted] occasions, NSA analysts queried a total of [redacted] telephone selectors that had not been vetted as [redacted] The FISA query requires reasonable suspicion determination. This misperception was corrected through instruction. Search results were not retained by the analysts, and no reports were issued. This mistake has resulted in increased internal controls [redacted]

(b)(1) (b)(3)-P.L. 86-36

(b)(1) (b)(3)-P.L. 86-36 (b)(3)-50 USC 3024(i)

(U) The FISA Amendments Act (FAA)

~~(TS//SI//REL TO USA, FVEY)~~ an NSA analyst forwarded FAA data to recipients who were not cleared for FAA. The analyst intended to send the e-mail analysts but selected an e-mail alias with a broader audience. The e-mail was recalled and destroyed

(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ During a tasking record review NSA analysts learned that targeted selectors had been tasked under the wrong authority. This due diligence review measure found that the analyst mistakenly selected PAA Certification instead of the FAA Certification. No collection occurred between when the selectors were tasked and when the correct authorization was assigned.

(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ NSA analysts learned that a target's e-mail selector was The selector was detasked and collection was purged from NSA databases

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ A valid foreign FAA target traveled to the United States The analyst submitted a detasking request but the detasking did not take effect until NSA databases were purged of collection

(U) The Protect America Act of 2007 (PAA)

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ an e-mail selector that did not belong to the intended target was tasked because of a typing error. The location of the tasked e-mail address is not known. No collection occurred when the mistake was identified.

~~(TS//SI//NF)~~

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

[redacted] The selector was detasked on [redacted] No collection occurred.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted]

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ NSA failed to remove a target selector from tasking when the [redacted] Research revealed that the [redacted] the United States on [redacted] The selector was detasked [redacted] No collection occurred.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//REL TO USA, FVEY)~~ During a tasking record review, NSA learned that [redacted] targeted selectors had been tasked under the wrong PAA authority. This due diligence measure found that analysts had mistakenly selected PAA Certification [redacted] instead of [redacted]. The [redacted] errors occurred from [redacted] with no collection resulting. The [redacted] The associated intercept was purged from NSA databases [redacted]

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ A selector was tasked [redacted] and detasked the same day when the analyst recognized that the target location research had not been completed. [redacted] The address was not re-tasked. No collection occurred.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted] NSA analysts learned that an e-mail address did not belong to the intended target. The [redacted] forwarded a mistyped e-mail selector that was tasked under PAA Certification [redacted] The PAA-tasked e-mail selector resulted in collection, which was purged from NSA databases [redacted]

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//NF)~~ NSA failed to detask an AG-authorized selector from PAA collection when the FAA was signed on 12 July 2008. An NSA analyst reviewing tasking files discovered the oversight [redacted] The telephone number was detasked the same day. No collection occurred [redacted]

~~(TS//SI//NF)~~ [redacted] NSA analysts learned that a target's e-mail selector had [redacted] The selector was detasked [redacted] and collection was purged from NSA databases on [redacted]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(U) Counterintelligence Activities

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

(U) Nothing to report.

(U) **Intelligence-related Activities**

~~(S//SI//NF)~~ To reduce the risk of unauthorized telephony collection and to prevent violations, NSA/CSS instituted a process designed to give analysts greater and faster insight into a target's location. [redacted] When collection occurred, it was purged from NSA databases.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(TS//SI//NF)~~ [redacted] NSA/CSS analysts found [redacted] email selectors [redacted] this quarter. In each case, the selectors were detasked. Collection occurred on [redacted] of the [redacted] instances; NSA databases were purged of the intercept. No reports were issues on the collection.

~~(S//SI//REL TO USA, FVEY)~~ Although not violations of E.O. 12333 and related directives, NSA/CSS reports [redacted] instances in which database access was not terminated when the need for access was no longer required. Once identified, accesses were revoked. Almost half of the incidents discovered can be attributed to an intelligence oversight internal control instituted by [redacted] A SIGINT database access screening process for analysts reporting to the [redacted] has resulted in the termination of accesses before security violations can occur.

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ A [redacted] assigned to a [redacted] used his predecessor's NSA Network account and SIGINT database account from [redacted] When the security violation was identified, the analyst was counseled on proper information technology security processes.

(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36

~~(TS//REL TO USA, FVEY)~~ [redacted] an NSA/CSS analyst included unminimized SIGINT in the form of [redacted] to a [redacted] customer. When this USSID SP0018 violation was discovered [redacted] the [redacted] analyst and the customer destroyed the files. Minimized data was then forwarded to [redacted]

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-18 USC 798
(b)(3)-50 USC 3024(i)

(b)(3)-P.L. 86-36

~~(TS//SI//REL TO USA, FVEY)~~ On [redacted] occasions [redacted] analysts incorrectly entered their own information into an NSA database for SIGINT collection and analysis. Believing that the data field required information on the analyst who tasked the selectors, the analysts entered their [redacted] When the mistake was identified [redacted] the data was removed, and the analysts received analysts received additional tasking training.

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(S//SI//REL to USA, UK)~~ [redacted]

(b)(1)
(b)(3)-P.L. 86-36
(3)-18 USC 798
(3)-50 USC 3024(i)

~~(TS//SI//REL TO USA, FVEY)~~ [redacted]

86-36
SC 798
(b)(3)-50 USC 3024(i)

~~(TS//SI//REL TO USA, FVEY)~~ [redacted] while gathering intelligence on foreign [redacted] in the defense of U.S. Department of Defense Networks, an NSA analyst discovered a U.S. hosted website containing child pornography. The matter has been referred to the Department of Justice.

(b)(3)-P.L. 86-36

(U//~~FOUO~~) The NSA/CSS OIG is reviewing the alleged manipulation of intelligence oversight training records at NSA/CSS Hawaii. [redacted] an employee reported that his training compliance date had been updated in the training database although he had not completed the annual E.O. 12333 training. Initial research by the NSA/CSS Hawaii intelligence oversight program manager indicates that one of the intelligence oversight database administrators may have wrongfully changed training completion dates of some employees.

2. (U//~~FOUO~~) NSA/CSS OIG Intelligence Oversight Inspections, Investigations, and Special Studies.

(U//~~FOUO~~) During this quarter, the OIG reviewed various intelligence activities of the NSA/CSS to determine whether they had been conducted in accordance with applicable statutes, Executive Orders, AG procedures, and Department of Defense and internal directives. With few exceptions, the problems uncovered were routine and showed that operating elements understand the restrictions on NSA/CSS activities.

(U//~~FOUO~~) [redacted] The joint inspection found that I/O roles and responsibilities were not clearly defined and I/O processes and procedures were not developed and documented. Two percent of the workforce had not completed initial I/O training as required by NSA/CSS Policy 1-23. The NSA/CSS OIG will track corrective action through completion.

(b)(3)-P.L. 86-36

(b)(1)
(b)(3)-P.L. 86-36
(b)(3)-50 USC 3024(i)

~~(S//REL TO USA, FVEY)~~ [redacted] On 26 September 2008, the NSA/CSS OIG completed a special study of the NSA [redacted] The objectives of the review were to identify authorities for the handling of data in [redacted] and to determine whether policies and procedures are in place and followed to ensure compliance with those authorities. We also reviewed system security practices related to [redacted] information systems. We found that the [redacted] is not in compliance with the NSA Associate Directorate for Security and Counterintelligence policies and procedures in three instances. Specifically, the [redacted] lacks an oversight board or mechanisms; required quarterly meetings with the NSA OGC do not occur; and executive reviews have not been conducted. The study also found that three auditing practices do not follow internal control standards; there are no procedures for auditing [redacted] queries; and oversight of [redacted] system security is lacking. The NSA/CSS OIG will track corrective action through completion.

(b)(3)-P.L. 86-36

~~(S//SI//REL TO USA, FVEY)~~ **Alleged Unauthorized Disclosure of Classified Information and Misuse of the USSS.** The NSA/CSS OIG is conducting an inquiry into alleged unauthorized disclosure of classified information and misuse of the USSS. Reportedly, [redacted] a Navy Cryptologist met with an uncleared Navy Family Readiness social worker and disclosed that he had targeted his ex-wife and other family members through his job. A review of the social worker's notes and statement revealed that the information shared was classified Secret//SIGINT//Releasable to the United States, Australia, Canada, Great Britain, and New Zealand. The results of the inquiry will be provided upon completion.

(U) **Congressional, IOB, and DNI Notifications**

~~(S//SI//NF)~~ On 6 October 2008, NSA notified the Senate Select Committee on Intelligence (SSCI) of an impending televised interview of James Bamford by ABC News, and the impending release of his book *The Shadow Factory: The Ultra-Secret NSA from 9/11 to the Eavesdropping on America.* The subject of the interview was the allegation that NSA had engaged in improper intelligence activities. The allegation and book were based in part on allegations made last year by retired SGT Adrienne J. Kinne, a U.S. Army Reservist, who had been assigned to the Army Intelligence and Security Command at Fort Gordon, Georgia. Representatives from the NSA/CSS OIG, OGC, and Office of Legislative Affairs have since met with SSCI and HPSCI staffs to discuss the recent allegations of NSA misconduct by Ms. Kinne and former Navy Cryptologic Technican (Interpretive) Second Class Petty Officer David M. Faulk. NSA is investigating the claims of Mr. Faulk. The Department of the Army is investigating Ms. Kinne's claims.

~~(S//SI//NF)~~ Also on 6 October 2008, NSA/CSS informed the Assistant to the Secretary of Defense for Intelligence Oversight of improper disposal of classified information technology equipment from NSA/CSS Texas.

3. (U) Substantive Changes to the NSA/CSS Intelligence Oversight Program.

(U) Nothing to report.

4. (U) Changes to NSA/CSS published directives or policies concerning intelligence, counterintelligence, or intelligence-related activities and the reason for the changes.

(U) Nothing to report.

5. (U) Procedures governing the activities of Department of Defense (DoD) intelligence components that affect U.S. persons (DoD Directive 5240.1-R, Procedure 15) Inquiries or Matters Related to Intelligence Oversight Programs.

(U) Nothing to report.